

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
FAYETTEVILLE DIVISION

MARIO ROBERT OVALLE, SR.

PLAINTIFF

v.

Civil No. 05-5215

SHERIFF KEITH FERGUSON;  
CAPTAIN HUNTER PETRAY;  
DR. NEIL MULLINS; and  
NURSE SUE McDONALD

DEFENDANTS

**REPORT AND RECOMMENDATION OF THE MAGISTRATE JUDGE**

Mario Robert Ovalle, Sr., filed this pro se civil rights action pursuant to 42 U.S.C. § 1983 on December 30, 2005. His complaint was filed in forma pauperis (IFP). At the time he filed the complaint, Ovalle was incarcerated at the Benton County Detention Center.

On June 1, 2006, the court entered an order granting the defendants an extension of time to file their court ordered summary judgment motion (Doc. 15). On June 8, 2006, the order sent by the court to Ovalle at the Benton County Detention Center was returned as undeliverable—attempted not known.

On June 16, 2006, the defendants filed a motion to dismiss (Doc. 16). Defendants indicate they have been unable to serve plaintiff with their motion for an extension of time and their discovery requests.

Ovalle has not communicated with the court. No other address for the plaintiff appears in the file.

I therefore recommend defendants' motion to dismiss be granted and Ovalle's complaint be dismissed on the grounds he has failed to prosecute this action and obey the rules of the court requiring him to keep the court informed of his address. *See Fed. R. Civ. P. 41(b).*

**The parties have ten days from receipt of the report and recommendation in which to file written objections pursuant to 28 U.S.C. § 636(b)(1). The failure to file timely objections may result in waiver of the right to appeal questions of fact. The parties are reminded that objections must be both timely and specific to trigger de novo review by the district court.**

DATED this 28th day of June 2006.

/s/ Beverly Stites Jones  
UNITED STATES MAGISTRATE JUDGE